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14 ROSS UNIVERSITY SCHOOL OF MEDICINE,
SCHOOL OF VETERINARY MEDICINE
15 LIMITED

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17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 EASTERN DIVISION
20

21 DAVID T. TRAN,
22
23 Plaintiff,
24 v.
25 ROSS UNIVERSITY SCHOOL OF
MEDICINE,
26 Defendant.

Case No. 5:17-cv-00583 JGB(DTBx)

**DEFENDANT'S UNOPPOSED
MOTION TO CONTINUE
HEARING ON DEFENDANT ROSS
UNIVERSITY SCHOOL OF
MEDICINE'S NOTICE OF
MOTION TO DISMISS UNDER
FRCP 12(B)(2) AND 12(B)(6)**

Judge: Jesus G. Bernal

Date Action Filed: March 27, 2017

Pursuant to the Court's Procedures, Defendant respectfully requests that the hearing on its motion to dismiss (Dkt. No. 18) be continued from October 23, 2017, to December 11, 2017. In support of this motion, Defendant states as follows:

Defendant filed a motion to dismiss this lawsuit for, among other reasons, lack of personal jurisdiction and set the hearing on the motion to dismiss for October 23, 2017. Accordingly, Plaintiff's opposition to the motion to dismiss was due October 2, 2017. Rather than file an opposition, Plaintiff filed a motion to transfer venue to the U.S. District Court for the Southern District of Florida (Dkt. No. 26) and set the hearing on his motion to transfer venue for December 11, 2017.

In his motion to transfer venue, Plaintiff effectively concedes that the Court does not possess personal jurisdiction over Defendant. To begin with, he moves to transfer venue under 28 U.S.C. 1406(a), which applies only to cases "laying venue in the wrong division or district." In addition, in the body of his motion to transfer venue, he admits that this venue "is improper," (Pl. Mot. [Dkt. No. 26] 2:1-2), states that he "acknowledges or is fearful that the lack of personal jurisdiction would dismiss the case," (*Id.* at 3:15-16), states that he "is strongly doubtful of whether or not California has personal jurisdiction over the defendant," (*Id.* at 5:3-5), and "concedes to the fact [that this Court is the "'wrong' court"] when reading defendant's demurrer," (*Id.* at 5:6-8).

As a result, the only question before the Court is whether it should dismiss the case altogether or transfer it to the U.S. District Court for the Southern District of Florida, as Plaintiff requests. Defendant intends to file an opposition to Plaintiff's motion to transfer venue on or before the deadline for doing so (November 20, 2017).

Because of the overlap in the issues being presented by the two motions (indeed, the situation is such that one or the other should be granted), there is good cause to continue the hearing on Defendant's motion to dismiss until the same date on which the Court will hear Plaintiff's motion to transfer venue, *i.e.*, December 11, 2017.

1 Pursuant to L.R. 7-3, the undersigned counsel for Defendant contacted Plaintiff via
2 e-mail regarding the relief to be requested in this motion. In response, Plaintiff agreed via
3 e-mail that the hearing on Defendant's motion to dismiss should be continued to
4 December 11, 2017.

5 **WHEREFORE**, Defendant respectfully requests that the hearing on its motion to
6 dismiss be continued to December 11, 2017.

7 DATED: October 9, 2017

Respectfully submitted,

8 SEYFARTH SHAW LLP

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10 By: *s/Brian Stolzenbach*
11 Brian Stolzenbach
12 Counsel for Defendant
13 ROSS UNIVERSITY SCHOOL
14 OF MEDICINE, SCHOOL OF
15 VETERINARY MEDICINE LIMITED

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